

REMARKS/ARGUMENTS

STATUS OF THE CLAIMS

Claims 20-35 and 87 are pending and currently being considered by the Examiner.

CLAIM REJECTION – 35 U.S.C. § 103

Claims 20-35 and 87 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Published Patent Application No. 2004/0009075 filed by Meza et al. (hereinafter “Meza”) supported by or in view of United States Patent No. 5,883,489 issued to Konrad (hereinafter “Konrad”), United States Patent No. 4,912,936 issued to Denpou (hereinafter “Denpou”), and/or United States Patent No. 5,512,883 issued to Lane Jr. (hereinafter “Lane”).

Meza is assigned to Shurflo Pump Manufacturing Company, Inc. of Cypress, CA, which was a wholly-owned subsidiary of Wicor Industries of Milwaukee, WI at the time of invention of the present application. The present application is assigned to Sta-Rite Industries, Inc. of Delavan, WI, which was also a wholly-owned subsidiary of Wicor Industries of Milwaukee, WI at the time of invention of the present application. Wicor Industries and its subsidiaries, including Shurflo Pump Manufacturing Company, Inc. and Sta-Rite Industries, Inc., were purchased by Pentair, Inc. in August of 2004. After Pentair Inc. purchased Wicor Industries, Shurflo Pump Manufacturing Company, Inc. was reorganized as SHURflo, LLC and Sta-Rite Industries, Inc. was reorganized as Sta-Rite Industries LLC.

Applicant respectfully submits that Meza cannot be used to reject the claims of the present application under 35 U.S.C. § 103. Meza is prior art to the present application only under 35 U.S.C. §102(e). The subject matter in Meza and the present application were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, namely, Wicor Industries, Inc. of Milwaukee, Wisconsin. Accordingly, under 35 U.S.C. §103(c), the subject matter of Meza shall not preclude patentability of the claims of the present application. According to MPEP § 706.02, common ownership and/or a common obligation of assignment is sufficient to disqualify the use of Meza

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in a rejection under 35 U.S.C. §103(a). Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of Claims 20-35 and 87 as being unpatentable over Meza and various other references.

CONCLUSION

In light of the above, Applicant respectfully requests reconsideration and allowance of pending Claims 20-35 and 87.

Respectfully submitted,

A handwritten signature in black ink, reading "Raye L. Daugherty". The signature is written in a cursive, flowing style.

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